

## ORDINANCE NO. 1321

AN ORDINANCE AMENDING ARTICLE 1, CHAPTER 2 OF THE CODE OF THE CITY OF GIRARD, KANSAS BY AMENDING SECTION 101 AND SECTION 110 AND ADDING SECTION 111 PERTAINING TO ANIMALS NUISANCES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GIRARD, KANSAS: AMENDING SECTIONS 101 AND 110 AND ADDING SECTION 111.

### SECTION 1. DEFINITIONS.

The following words, terms and phrases when used in this article shall have the meaning prescribed in this section except in those cases where the context clearly indicates a different meaning:

- a) Animal - Every non-human species of animal, both domestic and wild, including but not limited to any horse, mule, donkey, pony, bull, cow, calf, sheep, goat, hog, dog, pig, cat, rat, rabbit, chicken, goose, duck, turkey, or other fowl or non-human species animal.
- b) Animal-at-large -Any animal which is either:
  1. Not securely confined by a fence or other means on premises under the control of, or occupied by, the owner; or
  2. Not under the control of the owner, a member of the owner's immediate family or an agent of the owner, by leash or lead and obedient to that person's commands, whether on the owner's premises or not.
- c) Animal Shelter - Any facility or premises designated by the city or operated by the city, its authorized agents or a humane society, for the purpose of impounding animals under the authority of this article for care, confinement, return to owner, adoption, or euthanasia, whether such facility or premises be located within or without the corporate limits of the city.
- d) Animal Control Officer or Humane Officer -Any person designated by the city charged with responsibility for enforcement of the provision of this article.
- e) Auction -Any place or facility where animals are regularly bought, sold, or traded, except for those facilities defined elsewhere in this section. The word auction shall not mean or apply to individual sales of animals by owners, nor to any livestock auction or animal sales barn regulated and/or licensed by the State of Kansas.
- f) Circus - A commercial variety show featuring animal acts for public entertainment.
- g) Commercial Animal Establishment-Any pet shop, grooming shop, guard dog training center, auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel, as defined elsewhere in this section.
- h) Grooming Shop - Any commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.
- i) Guard Dog - Any dog that will detect and warn its handler that an intruder is present in or near an area that has been or is being secured, or protects a secured premise, facility, building or other property from unlawful intrusion.
- j) Kennel or Cattery -Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs and/or cats.
- k) Livestock -Any cattle, swine, sheep, goats, nutria, poultry, fowl, or any other recognized farm animal.

- l) Owner -Any person, firm, partnership, or corporation owning, keeping or harboring one or more animals. The occupant of any premises on which a domesticated or tamed animal remains, or to which it customarily returns, and is fed or sheltered for a period of seven consecutive days or more, shall be deemed to be keeping or harboring the animal.
- m) Performing Animal Exhibition - Any spectacle, display, act, or event, other than circuses, in which performing animals are used.
- n) Pet or Companion Animal - Any animal kept for pleasure rather than utility, or any animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.
- o) Pet Shop - Any person, firm, partnership, or corporation, whether operated separately or in connection with another business enterprise, excluding a licensed kennel or cattery, that buys, sells, or boards any species of animal.
- p) Public Nuisance - Any animal, or animals, that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property.
- q) Public Nuisance Animal- Includes, but is not limited to, any animal that:
  - 1. Is repeatedly found at large;
  - 2. Damages the property of anyone other than its owner;
  - 3. Molests or intimidates pedestrians or passersby;
  - 4. Chases vehicles;
  - 5. Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - 6. Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - 7. Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
  - 8. Is offensive or dangerous to the public health, safety, or welfare by virtue of the number; and/or types of animals maintained;
  - 9. Deposits excrement on any public or private property, other than the property of the owner of the animal, which the owner or possessor of the animal repeatedly fails to remove;
  - 10. Attacks other domestic animals; or
  - 11. Has been found by the city council or judge of the municipal court, after notice to its owner and hearing, to be a public nuisance animal by virtue of being a menace to the public, health, welfare, or safety.
- r) Restraint -The animal is secured by a leash or lead under the control of a responsible person and obedient to that person's commands, or that the animal is confined within a building, a complete enclosure, or by a fence at least six feet in height, or attached to a chain of appropriate strength at least three feet in length but not longer than the distance to the nearest property line, or other appropriate means on premises under the control of, or occupied by, its owner.

- s) Riding School or Stable -Any place that is available for boarding and/or riding instruction and/or has available for hire, any horse, pony, donkey, mule, or burro; or any place that regularly buys, sells, or trains the preceding animals, including racetracks, trotting tracks, and rodeos.
- t) Veterinary Hospital -Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.
- u) Vicious Animal -Any animal which has bitten, injured, or attacked, or attempted to bite, injure, or attack human beings or domesticated animals without adequate provocation; or which attacks, or barks or growls at and acts as if it intends to attack, bite or injure human beings or domesticated animals when not unduly provoked; or which, because of temperament, conditioning, training, or breeding, has a known propensity to attack, bite or injure human beings or domesticated animals; or which is harbored or trained for fighting.
- v) Wild Animal -Any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes or jackals); domestic cats (excluding hybrids with ocelots or margays); farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.
- w) Zoological Park -Any facility operated by a person, firm, partnership, corporation, or government agency, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animal.
- x) Service Animals. A service animal is defined by the Americans with Disabilities Act (ADA). Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

1. Only service animals as described above are allowed entry into public facilities.

## SECTION 2. NUISANCE; ANIMAL ACTIVITIES PROHIBITED.

It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as any animal which:

- (a) Molests or interferes with persons in the public right-of-way;
- (b) Attacks or injures persons, or other domestic animals;
- (c) Damages or befouls public or private property other than that of its owner or possessor by its activities or with its excrement;
- (d) Scatters refuse that is bagged or otherwise contained;
- (e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.

SECTION 3. ANIMAL OWNER RESPONSIBILITY FOR REMOVAL OF ANIMAL EXCREMENT.

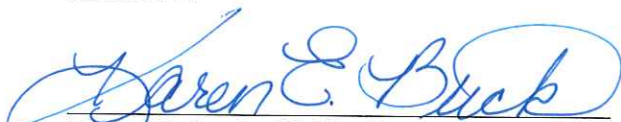
- a) It shall be unlawful for any person to appear with an animal upon the public right-of-way, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement that may be deposited by the animal.
- b) It shall be unlawful for any person who is an owner or possessor of an animal in their care to fail to remove any excrement deposited by the animal upon any public or private property, other than the property of the owner of the animal.
- c) The provisions of this section shall not apply to persons who have a physical disability or visual impairment, who are using service dogs, and can provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for service work for the physically disabled or visually impaired.
- d) Violation of this section shall be punished by a fine of not less than \$20.00, plus applicable court costs.

SECTION 3. This Ordinance shall be in full force and effect upon its passage, approval and publication according to law.

PASSED AND APPROVED THIS 7TH DAY OF JANUARY 2019.

  
Mickey J. Pyle, Mayor

ATTEST:

  
Karen E. Buck, CMC, CPM, City Clerk